

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY MAY 14, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1468

Introduced by Assembly Member Pavley

February 21, 2003

An act to add Article 8 (commencing with Section 41985) to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1468, as amended, Pavley. Air quality: negative air machines.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources, and, subject to the powers and duties of the state board, requires that districts adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction.

This bill would require each negative air machine ~~in the state~~, as defined, *at an asbestos abatement site in the state that is inspected by a district pursuant to a rule adopted by that district* to be leak tested on a monthly basis, ~~and would prohibit any negative air machine from emitting more than 0.01 asbestos fibers per cubic centimeter.~~ The bill

would require the testing of a negative air machine to be conducted by an *approved* independent testing company, *as defined*, and would prohibit contractors from testing their own equipment. The bill would *authorize an approved independent testing company that completes training by an approved training business, as defined, to certify a negative air machine if it meets certain industry standards. The bill would require the independent testing company to issue a certification to the abatement contractor that owns or operates a machine, and to affix the a certification decal to the negative air machine. The bill would require the state board to adopt regulations to implement the certification program, including a program for authorizing approved independent training companies to train independent testing companies.* The bill would require each owner or operator to maintain a copy of a certification for every negative air machine on ~~a~~ *an asbestos abatement* worksite, and would require ~~a~~ *an* owner or operator to maintain testing records on each negative air machine owned and operated, and to make those records available to the district. The bill would require the district with jurisdiction over ~~the owner-operator area~~ *where an asbestos abatement project occurs* to enforce the testing and certification requirements. The bill would, in addition to any other sanctions under existing law, subject any person who violates any of those requirements to a citation and an administrative fine in an amount determined by the district. By imposing additional duties on districts, this bill would impose a state-mandated local program.

(2) Existing law makes a violation of any provision of the nonvehicular air pollution control laws in the state, including any rule, regulation, permit, or order of the state board or a district, a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.



With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 8 (commencing with Section 41985) is added to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, to read:

Article 8. Negative Air Machines

41985. The Legislature finds and declares all of the following:

(a) Substantial medical and scientific evidence indicates that human exposure to asbestos fibers significantly increases the risk of contracting cancer and other debilitating or fatal diseases, including, but not limited to, asbestosis. There is no known threshold level of exposure at which adverse health effects are not anticipated.

(b) Asbestos materials were commonly used in this state in public and private schools, state and federal buildings, commercial buildings, as well as in residential homes and apartments for fireproofing, soundproofing, decoration, thermal insulation, and other purposes. As an insulating material and fire retardant, asbestos is commonly part of plumbing, heating, air-conditioning insulation, and plaster, carpet, tile and roof materials, masonry, stonework, and concrete work.

(c) Removal or disturbances of materials containing asbestos can result in the release of airborne asbestos fibers, especially if the material is reducible to powder by hand pressure. This may result in exposure of employees and the public to potentially dangerous levels of asbestos.

(d) Negative air machines are used in asbestos abatement work to maintain the desired negative pressure inside the abatement enclosure, provide adequate air changes within the enclosure for

1 ventilation and worker safety, and to capture asbestos fibers drawn
2 from inside the abatement enclosure in a HEPA filter.

3 (e) For the protection of public health from carcinogenic air
4 emissions, it is vital to ensure that when asbestos abatement is
5 undertaken, that negative air machines are tested for leaks to
6 ensure that only clean, asbestos-free air is exhausted to the outside
7 or recirculated within the building.

8 41986. For the purposes of this article, the following terms
9 have the following meanings:

10 (a) *“Approved independent training business” means a*
11 *company that has been approved by the state board to provide*
12 *training to independent testing companies to test negative air*
13 *machines pursuant to this article.*

14 (b) *“Approved independent testing company” means a*
15 *company that an approved independent training business certifies*
16 *as having satisfactorily completed training for testing negative air*
17 *machines, and is thus approved to perform negative air machine*
18 *testing for the purposes of this article.*

19 (c) *“HEPA” means a high-efficiency particulate air filter that*
20 *is capable of trapping and retaining at least 99.97 percent of all*
21 *monodispersed particles of 0.3 micrometer in diameter or larger.*

22 ~~(b)~~

23 (d) *“Negative air machine” means a machine or contrivance*
24 *whose primary use is to remove airborne asbestos contaminants*
25 *from residential or commercial abatement projects by passing*
26 ~~*asbestos-containing asbestos-contaminated*~~ *air from an isolated*
27 *work area by means of negative air pressure to a HEPA filtration*
28 *system.*

29 41987. (a) ~~(1) Each negative air machine~~ *Each negative air*
30 *machine at an asbestos abatement site that is inspected by a*
31 *district pursuant to a rule adopted by that district, including, but*
32 *not limited to, each air pressure differential unit, makeup air filter,*
33 *and vacuum, shall be leak tested on a monthly basis.*

34 (b) (1) *An independent testing company may certify that a*
35 *negative air machine has successfully passed a leak test only if the*
36 *results of that test meet or exceed the American National Standards*
37 *Institute Z-9 standards adopted by the state board pursuant to*
38 *paragraph (2) of subdivision (c).*

39 (2) Each leak test shall include a test of the wheel attachments,
40 control panel, seam and rivets of the housing, and the HEPA filter.

1 ~~(c) A negative air machine may not emit more than 0.01~~
2 ~~asbestos fibers per cubic centimeter.~~

3 (c) *The state board shall develop and adopt regulations to*
4 *implement this article, including provisions that do all of the*
5 *following:*

6 (1) *Create an approval program for registering and approving*
7 *independent training businesses and for those businesses to train*
8 *independent testing companies to test negative air machines.*

9 (2) *Adopt American National Standards Institute Z-9 standards*
10 *for use by approved training businesses in training testing*
11 *companies.*

12 (3) *Require approved independent training businesses to*
13 *provide the state board with a list of approved independent testing*
14 *companies, and require that list to be regularly updated.*

15 (4) *Create and maintain a database of approved independent*
16 *training businesses and approved independent testing companies,*
17 *and make that database accessible to the public.*

18 (5) *Create certification forms and decals to be used by*
19 *approved independent testing companies in testing and certifying*
20 *the test results of negative air machines pursuant to this article.*

21 (6) *Include, at the discretion of the state board, either or both*
22 *of the following in the approval program:*

23 (A) *The imposition of an initial application fee on training*
24 *businesses seeking to become approved training businesses.*

25 (B) *A requirement that each approved independent testing*
26 *company remit an annual fee to the state board for maintaining*
27 *that approval status.*

28 (d) *Testing of a negative air machine shall be conducted by an*
29 *approved independent testing company. Contractors may not test*
30 *their own equipment. Upon completing a leak test on a negative*
31 *air machine, the approved independent testing company shall*
32 *certify the leak test.*

33 (e) *The approved independent testing company shall issue a*
34 *certification to the abatement contractor that owns or operates the*
35 *machine, and shall affix ~~the~~ a decal indicating that certification to*
36 *the negative air machine. The owner or operator of the machine*
37 *shall maintain a copy of certification for every negative air*
38 *machine used on a worksite.*

39 (f) *The owner or operator of each negative air machine shall*
40 *maintain testing records on each negative air machine owned or*

1 operated, and shall make those records available for inspection by
2 the district *with jurisdiction over the area of the asbestos*
3 *abatement project site where the negative air machine is used.*

4 (g) Any unit that fails a leak test required by subdivision (a)
5 shall be repaired, removed from any worksite, or replaced with a
6 unit that successfully completes a leak test.

7 (h) The district with jurisdiction over the ~~owner or operator of~~
8 ~~a negative air machine~~ *area where an asbestos abatement project*
9 *occurs* shall enforce the requirements of this section.

10 (i) In addition to any other sanctions under existing law, any
11 person who violates any of the provisions of this section is subject
12 to citation and the imposition of an administrative fine by the
13 district in an amount determined by the district.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution for
16 certain costs that may be incurred by a local agency or school
17 district because in that regard this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 However, notwithstanding Section 17610 of the Government
24 Code, if the Commission on State Mandates determines that this
25 act contains other costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code. If the statewide cost of the
29 claim for reimbursement does not exceed one million dollars
30 (\$1,000,000), reimbursement shall be made from the State
31 Mandates Claims Fund.